

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX

IN THE MATTER OF:)	Order No. 92-01
)	
Century Plating Company, Inc.)	
1124 139th Avenue)	
San Leandro, California)	ADMINISTRATIVE ORDER
)	PURSUANT TO SECTION 106
Edgar R. Conder)	OF THE COMPREHENSIVE
)	ENVIRONMENTAL RESPONSE,
Wayne W. McMahon)	COMPENSATION, AND
)	LIABILITY ACT OF 1980
Respondents)	as amended, 42 U.S.C.
)	Section 9606(a)

PREAMBLE

This Administrative Order (Order) is issued on this date to the above-referenced Respondents, pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Section 9606(a), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499 (CERCLA), delegated to the Administrator of the United States Environmental Protection Agency (U.S. EPA) by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, further delegated to the EPA Regional Administrators by U.S. EPA Delegation Nos. 14-14-A and 14-14-B, and further redelegated to the Director, Hazardous Waste Management Division, by Region IX Delegations 1290.41 and 1290.42.

The State of California has been notified of the issuance of this Order as required by Section 106(a) of CERCLA, 42 U.S.C. Section 9606(a).

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This Order requires the Respondents to undertake and complete removal activities to abate an imminent and substantial endangerment to the public health or welfare or the environment that may be presented by the actual or threatened release of hazardous substances from the above-referenced Site.

FINDINGS OF FACT

Based on available information, including the Administrative Record in this matter, the U.S. EPA hereby finds:

1. Site Description/Location

Century Plating Company, Inc. ("Century Plating") operates an electroplating business that primarily services small customers such as owners of motorcycles, antique cars, and ornaments. Operations consist of copper, nickel, chrome, brass, antique brass, and antique copper plating.

Century Plating is located at 1124 139th Avenue (the "Site"), east of the intersection of 139th Avenue and Washington Boulevard, in the City of San Leandro. This privately owned parcel of land and the buildings thereon are the subject of this Administrative Order issued by the U.S. EPA.

2. Site Characteristics

The Site is situated in a mixed residential and industrial setting. Residential areas are present to the northwest, east and southeast. A residential duplex and several homes border on the west and south sides of the Site.

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1 San Leandro is a community of approximately 68,000 people.
2 Located within a half-mile of the Site are Jefferson Elementary
3 School, Humana Hospital, and Halcyon Park. San Leandro High
4 School is located within a mile and a half of the Site.

5 The Century Plating building includes an office area, was-
6 tewater treatment, plating lines, and polishing/grinding areas.
7 The building is approximately 5,000 square feet with cinder block
8 walls, wooden framed ceiling, and a four-inch thick concrete
9 poured foundation. The building is approximately 35 years old
10 and is dilapidated. An industrial boiler explosion and fire in
11 1986 damaged the roof of the plating shop. The roof supports are
12 charred and hanging precariously above the southeast corner of
13 the building.

14 The exterior yard is located west of the plating shop. The
15 dirt and gravel covered yard is approximately 13,000 square feet.
16 There is a considerable amount of equipment and debris throughout
17 the yard. There are eight junk automobiles and two buses, old
18 boiler equipment, a large steel cyclone dust collector, discarded
19 vats and drums, wooden pallets, scrap metal, and garbage. Drums
20 and containers containing waste solids, liquids and sludges,
21 spent plating solutions, pure products, and unknown materials are
22 stored in several locations throughout the open yard. The condi-
23 tion of the drums and containers range from good to poor.

24 Site security is inadequate. There is unsecured access to
25 the exterior yard along the back fenceline separating Century
26 Plating property from the adjoining residential property.
27 Children and other individuals can easily climb over the low
28 wooden fence.

1 3. Respondents

2 Century Plating Company, Inc. is a California Corporation in
3 good standing which conducts its electroplating activities at
4 1124 139th Avenue, San Leandro, California.

5 Edward R. Conder and Wayne W. McMahon hold title to the
6 property on which Century Plating is located. Edward R. Conder
7 is the president of Century Plating. Wayne W. McMahon is the
8 shop foreman.

9 Century Plating, Edward R. Conder, and Wayne M. McMahon are
10 jointly referred to herein as Respondents.

11 4. Incident/Release Characteristics

12 On October 1, 1991, the Alameda County Department of En-
13 vironmental Health (ACDEH) requested assistance from the Emer-
14 gency Response Section (ERS) of the U.S. EPA to conduct an as-
15 sessment of the Site. ERS conducted a Site visit on October 16,
16 1991. The soils are visibly stained and vegetation is visibly
17 stressed in several areas along the west side of the Site.
18 Leakage from the drums stored in the south corner of the yard has
19 spilled to the ground, contaminating the soil. A poly drum con-
20 taining chromic acid located near the front gate of the yard
21 showed visible spillage of material on the sides of the drum and
22 on the soil. Results of the analysis on a soil sample collected
23 by ACDEH in September, 1991, revealed elevated concentrations of
24 nickel, copper, and cyanide.

25 Two chlorinated solvents have been detected in the
26 groundwater under the Site: tetrachloroethylene (PCE) and
27 trichloroethene (TCE). The State Department of Toxic Substances
28 Control installed monitoring wells at the Site as part of an

overall groundwater monitoring program focused on the "750 139th Avenue" State Superfund Site. Sampling of the monitoring wells at the Site has revealed groundwater contamination in both the shallow and intermediate-depth aquifers. PCE and TCE were detected at high levels beneath the Site. In addition, Primary Drinking Water Standards were exceeded for chromium.

5. Quantities and Types of Substance Present

On October 16, 1991, the U.S. EPA's Technical Assistance Team prepared an inventory of drums, containers, tanks, vats, sumps at the Site, identified their contents, and collected samples. Assessment and analysis detected the following:

1. Tetrachloroethylene (PCE) was detected in the Site's shallow monitoring well at 920 parts per billion (ppb). PCE was detected in the Site's intermediate depth monitoring well at 31 ppb. The State and U.S. EPA maximum contaminant level (MCL) for drinking water is 5 ppb.

2. Trichloroethene (TCE) was detected in the Site's shallow monitoring well at 65 ppb. TCE was detected in the intermediate depth monitoring well at 10 ppb. The State and U.S. EPA maximum contaminant level (MCL) for drinking water is 5 ppb.

3. The approximately twenty-five (25) plating vats located in the plating shop area include the following volumes of materials:

Acid/Acid Oxidizing	4,600 gallons
Cyanide	2,600 gallons
Base	1,800 gallons
Oxidizing	1,700 gallons
Non-Characteristic	7,800 gallons

1 4. There are approximately 150 drums and containers of
2 waste and spent plating solutions, product material, and unknown
3 materials in the exterior yard area. This total includes 125
4 55-gallon drums. Five drums were too corroded to sample. Most
5 drums were not labeled. Several of the open, exposed drums were
6 sampled by ACDEH in September, 1991. These drums appear to con-
7 tain waste material such as sludges and solids mixed with wood
8 debris. The sample analysis revealed that the contents of the
9 drums were contaminated with high levels of nickel, copper, zinc,
10 and cyanide. U.S. EPA testing revealed the presence of acids,
11 cyanides, caustics, oxidizers, flammable, and metal plating solu-
12 tions in drums located in the plating shop and exterior yard
13 areas.

14 6. Threats to Public Health and Welfare

15 The substances of concern are nitric acid, sulfuric acid,
16 hydrochloric acid, chromic acid, sodium cyanide, copper cyanide,
17 hydrogen cyanide, sodium hydroxide, chromium, nickel, copper,
18 tetrachloroethylene (PCE) and trichloroethene (TCE).

19 Nitric acid is a corrosive material which can burn the skin,
20 eyes and respiratory tract upon direct contact or inhalation of
21 vapors. It can cause acute pulmonary edema or chronic pulmonary
22 diseases from inhalation. When heated or reacted with water, it
23 produces toxic and corrosive fumes.

24 Sulfuric acid is extremely hazardous to health and is cor-
25 rosive to all body tissues. Inhalation of the vapor may cause
26 serious lung damage. Contact with eyes may result in total loss
27 of vision. Skin contact may produce severe necrosis.

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1 Hydrochloric acid is a strong corrosive which can burn the
2 skin, eyes and mucous membranes upon dermal contact. It is also
3 moderately irritating to the respiratory tract when inhaled.
4 Hydrochloric acid produces toxic and corrosive fumes when exposed
5 to water.

6 Chromic acid is corrosive to metals and tissue. It can
7 react with combustible materials and the heat produced by the
8 reaction may be sufficient to ignite the combustible materials.
9 A fire may produce irritating or poisonous gases.

10 Sodium hydroxide is corrosive to tissue in the presence of
11 moisture. If ingested, it is a strong irritant to eyes, skin,
12 and mucous membranes.

13 Cyanides, such as sodium cyanide and copper cyanide in the
14 liquid or solid form and hydrogen cyanide in the gaseous form,
15 are poisons. Exposure to cyanides may be fatal if inhaled, swal-
16 lowed or absorbed through the skin. Their manner of storage of
17 cyanides poses special risks because they can potentially come
18 into contact with incompatible materials, such as strong acids
19 which are stored nearby. Should cyanides come into contact with
20 a strong acid, such as nitric or hydrochloric acid, a release of
21 hydrogen cyanide would occur. Releases of hydrogen cyanide gas
22 would be life-threatening to individuals exposed to the gas.
23 Mixtures of cyanides and strong oxidizers, such as nitric and
24 hydrochloric acids, present both fire and explosion hazards.

25 Chromium is a suspected Occupational Safety and Health Act
26 (OSHA) human carcinogen. Chronic exposure to chromate dust may
27 cause bronchogenic carcinoma. Chromium is a poison and, when in-
28 gested, causes deleterious gastrointestinal effects.

1 Nickel dust or fume is a respiratory irritant that with
2 chronic exposure may cause nasal or lung cancer in humans. The
3 average latency period for the induction of cancer appears to be
4 25 years. Acute exposure to nickel fumes or copper dusts can
5 cause upper respiratory tract irritation, metal fume fever,
6 nausea, vomiting and abdominal pains.

7 Tetrachloroethylene (also known as PCE, tetrachloroethene,
8 and perchloroethylene) is a suspected carcinogen. Ingestion of
9 tetrachloroethylene has been determined by the Nation Institute
10 for Occupational Safety and Health (NIOSH) to cause adverse ef-
11 fects and damage to the liver, the kidney, the upper respiratory
12 system, and the central nervous system.

13 Trichloroethene (also known as TCE and trichlorethylene) is
14 a suspected carcinogen. Ingestion of trichloroethene has been
15 determined by NIOSH to cause adverse effects to the heart, the
16 kidneys, the respiratory system, and the central nervous system.

17 7. Threats to the Environment

18 The further release of contaminants to soil and the poten-
19 tial for degradation of groundwater resources currently threaten
20 the environment.

21 There is a high potential for soil contamination beneath the
22 plating shop building and adjacent properties due to an apparent
23 breach in the subfloor containment. It also appears that plating
24 solutions have been migrating through the porous cinder block
25 wall for many years. Contaminant migration to underlying soils
26 may be extensive.

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1 A potential threat to surface waters exists due to the
2 leakage of hazardous substances into the underlying soils near
3 sewer placements. Contaminants could migrate or leach into old
4 sewer lines through cracks, fissures and unsealed joints and ul-
5 timately contaminate surface waters located beyond the immediate
6 vicinity.

8 CONCLUSIONS OF LAW

9 Based on the foregoing Findings of Fact, the U.S. EPA has
10 concluded as follows:

11 1. The Century Plating Site, located at 1124 139th Avenue,
12 San Leandro, California is a "facility" as defined by Section
13 101(9) of CERCLA, 42 U.S.C. Section 9601(9).

14 2. Each named Respondent is a "person" as defined by Section
15 101(21) of CERCLA, 42 U.S.C. Section 9601(21).

16 3. Respondent Century Plating is the present "operator" of
17 the Site, as defined by Section 101(20) of CERCLA, 42 U.S.C. Sec-
18 tion 9601(20). Respondents Conder and McMahon are the current
19 "owners" of the Site, as defined by Section 101(20) of CERCLA, 42
20 U.S.C. Section 9601(20). Respondents are therefore liable per-
21 sons under Section 107(a) of CERCLA, 42 U.S.C. Section 9607(a).

22 4. Nitric acid, sulfuric acid, hydrochloric acid, chromic
23 acid, sodium cyanide, copper cyanide, hydrogen cyanide, sodium
24 hydroxide, chromium, nickel, copper, tetrachloroethylene (PCE)
25 and trichloroethene (TCE) are "hazardous substances" as defined
26 by Section 101(14) of CERCLA, 42 U.S.C. Section 9601(14), and
27 Section 302.4 of the National Contingency Plan (NCP), 40 CFR Part
28 300.

5. The presence of nitric acid, sulfuric acid, hydrochloric acid, chromic acid, sodium cyanide, copper cyanide, hydrogen cyanide, sodium hydroxide, chromium, nickel, copper, tetrachloroethylene (PCE) and trichloroethene (TCE) at the above-referenced Site, and the potential for those substances to migrate, constitutes an actual or threatened "release" of hazardous substances into the environment, as defined by Section 101(22) of CERCLA, 42 U.S.C. Section 9601(22).

DETERMINATIONS

Based on the Findings of Fact and Conclusions of Law stated above, the Director, Hazardous Waste Management Division, EPA Region IX, has made the following determinations:

1. The actual or threatened release of hazardous substances from the Facility subject to this Order may present an imminent and substantial endangerment to the public health or welfare or the environment.

2. The actions required by this Order, if properly performed are consistent with the National Contingency Plan (NCP), 40 CFR Part 300, and CERCLA; and are appropriate to protect the public health or welfare or the environment.

3. The conditions present at the Site constitute a threat to public health or welfare or the environment based upon consideration of the factors set forth in the NCP at 40 CFR section 300.415(b). These factors include, but are not limited to the following:

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1 a. Actual or potential exposure to hazardous substances by
2 nearby populations, animals, or food chain;

3 This factor is present due to the existence of a serious
4 threat of an uncontrolled reaction between highly incompatible
5 and acutely toxic chemicals. Large quantities of acid and
6 cyanide solutions stored in vats and drums lie in close proximity
7 to each other. There is a significant risk of a release due to
8 failure of the vats, drums, vat supports and flooring. The
9 mixing of acids and cyanides in a spill would result in a
10 hydrogen cyanide gas release that would cause a lethal release in
11 a densely populated area. There is a potential for this type of
12 release during a major earthquake.

13 Plating solutions are seeping through the wall of the build-
14 ing that divides the Site from residences, potentially exposing
15 neighborhood children to heavy metal contamination.

16 b. Actual or potential contamination of drinking water
17 supplies;

18 This factor is present due to the existence of heavy metal
19 and cyanide contamination which has been detected in surface
20 soils. It is suspected that there is significant soil contamina-
21 tion beneath the plating shop. The extent and magnitude of soil
22 contamination is not yet known. There are an estimated 83
23 private wells in the area that may be used for domestic purposes,
24 including drinking water.

25 An industrial production well is located next to the plating
26 shop. This well, if not properly constructed, may act as a con-
27 duit for contamination to the underlying aquifer.

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1 c. Hazardous substances or pollutants or contaminants in drums,
2 barrels, tanks, or other bulk storage containers that may pose a
3 threat of release;

4 This factor is present due to drums and containers that have
5 been stored in the exterior yard for many years some of which are
6 in very poor condition. Several drums containing very reactive
7 and acutely toxic substances are so highly corroded that failure
8 is imminent. The hazardous substances contained in the drums are
9 strong acids and cyanides. A combination of these chemicals in a
10 spill can generate a lethal hydrogen cyanide release. The heat
11 of the reaction when acids combine with combustible material can
12 cause a fire, and a subsequent toxic gas release.

13 Drums, containers and vats inside the plating shop are in an
14 unstable configuration and in very poor condition. Large quan-
15 tities of acid, cyanide, caustic and metal solutions are very
16 close together in a small and cramped plating room. The wooden
17 flooring that supports the drums and containers has deteriorated
18 from chemical breakdown. It is likely that the wooden vat sup-
19 ports are also highly digested. Failure of these structures
20 could cause the drums and vats to rupture or spill, potentially
21 resulting in a catastrophic release.

22 d. High levels of hazardous substances or pollutants or con-
23 taminants in soils at or near the surface that may migrate;

24 This factor is due to the existence of heavy metals and
25 cyanides which have been detected in surface soils through
26 limited soil sampling. Poor waste management practices as well
27 as indiscriminate dumping activities may have contributed to soil
28 contamination. There is a high potential for extensive soil

1 contamination in the exterior yard and beneath the plating shop.
2 This contamination could migrate to adjacent properties or to
3 groundwater. The contaminants in groundwater (chromium, TCE and
4 PCE) are currently used, or were used in the past, by Century
5 Plating.

6 e. Weather conditions that may cause hazardous substances or
7 pollutants or contaminants to migrate or be released;

8 This factor is present due to an exterior yard which has
9 barren soils and is virtually devoid of vegetation. High winds
10 could disperse contamination into neighboring residential
11 properties. Rainfall could percolate into the exposed soils,
12 causing the contaminants to migrate to groundwater. Heavy rain-
13 fall could cause localized flooding, resulting in contaminated
14 runoff onto adjacent properties, the street and into sewers.

15 f. Threat of fire or explosion;

16 This factor is present due to the non-segregation of acids
17 and bases, and acids, oxidizers and/or reactive chemicals from
18 the flammable/combustible materials. In addition, the electrical
19 and power systems inside the shop are not properly maintained.
20 Junction boxes are severely corroded. Extension cords to the
21 plating vats and sump pumps are used in lieu of permanent wiring.

22 g. Availability of other appropriate Federal or State response
23 mechanisms to respond to the release;

24 This factor supports the actions required by this Order be-
25 cause the State has informed the On-Scene Coordinator that it is
26 unable to conduct short-term site stabilization or other
27 responses.

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1 In the event any Respondent fails to provide such notice,
2 that Respondent shall be deemed not to have complied with the
3 terms of this Order.

4 4. Respondents shall retain a certified environmental contrac-
5 tor qualified to undertake and complete the requirements of this
6 Order, and shall notify the U.S. EPA of the name of such contrac-
7 tor, within two (2) calendar days after the effective date of
8 this Order. U.S. EPA retains the right to disapprove of any, or
9 all, of the contractors and/or subcontractors retained by the
10 Respondents. In the event U.S. EPA disapproves of a selected
11 contractor, Respondents shall retain a different contractor to
12 perform the Ordered work within two (2) calendar days following
13 U.S. EPA's disapproval.

14 5. Within five (5) calendar days after the effective date of
15 this Order, the Respondents shall submit a Site stabilization
16 plan to the On-Scene Coordinator for U.S. EPA approval. Upon ap-
17 proval of the plan, Respondents shall begin implementation of
18 Site stabilization activities within one (1) calendar day. The
19 immediate Site stabilization activities required consist of
20 recontainerizing hazardous substances in drums that have been
21 identified by U.S. EPA to be in poor condition. These drums are
22 located in the plating shop and exterior yard.

23 6. Within ten (10) calendar days after the effective date of
24 this Order, the Respondents shall submit to U.S. EPA for ap-
25 proval, a Work Plan for the remaining removal activities ordered
26 as set forth in Paragraph 8 below. The Work Plan shall provide a
27 concise description of the activities to be conducted to comply
28 with the requirements of this Order, and shall include a proposed

1 schedule for implementing and completing the activities.

2 The Work Plan shall be reviewed by U.S. EPA, which may approve,
3 disapprove, require revisions, or modify the Work Plan.

4 Respondents shall implement the Work Plan as finally approved by
5 U.S. EPA. Once approved, the Work Plan shall be deemed to be in-
6 corporated into and made a fully enforceable part of this Order.

7 7. The Work Plan shall contain a Site Health and Safety Plan, a
8 sampling and analysis plan, and a schedule of work to be per-
9 formed. The Site Health and Safety Plan shall be prepared in ac-
10 cordance with EPA's Standard Operating Safety Guide, dated
11 November 1984, and updated July 1988, and with the Occupational
12 Safety and Health Administration (OSHA) regulations contained in
13 29 CFR Part 120. The Work Plan and other submitted documents
14 shall demonstrate that the Respondents can properly conduct the
15 actions required by this Order.

16 8. Within five (5) calendar days after U.S. EPA approval of the
17 Work Plan, Respondents shall implement the Work Plan as approved
18 or modified by U.S. EPA. Failure of the Respondents to properly
19 implement all aspects of the Work Plan shall be deemed to be a
20 violation of the terms of this Order.

21 The Work Plan shall require the Respondents to perform and
22 complete within sixty (60) calendar days after approval, at a
23 minimum, the following removal activities:

- 24 a. Provide 24-hr security during removal operations.
- 25 b. Sample and characterize all containerized materials.
- 26 c. Perform air monitoring and sampling in accordance with
27 OSHA requirements during all phases of the removal action, when-
28 ever there is a potential for airborne releases of toxic air

1 contaminants. Operational controls such as dust containment
2 and/or suppression should be used to abate fugitive dust emis-
3 sions.

4 d. Remove or stockpile non-hazardous vehicles, equipment,
5 and debris to provide adequate space for response operations.

6 e. Prepare all hazardous substances for proper transporta-
7 tion for disposal, or where feasible, alternative treatment or
8 reuse/recycle options. The above may include bulking of com-
9 patibles, direct shipment for reuse, recontainerization of
10 materials into Department of Transportation specification con-
11 tainers, lab packing small quantities, solidification of liquid
12 wastes, and neutralization or other on-site treatment of wastes.

13 f. Remove grossly contaminated equipment, structures and
14 debris for proper disposal. Decontaminate structures to non-
15 hazardous levels and minimize the volume of hazardous wastes.
16 This may include the partial, or even total, demolition of the
17 building in order to permit access to areas of contamination.

18 g. Conduct surface and subsurface soil sampling to deter-
19 mine the nature and extent of contamination.

20 h. Sample and inspect the on-site industrial well for
21 structural integrity. Seal the well if required by U.S EPA.

22 i. Dispose of or stabilize contaminated soils found near
23 the surface.

24 j. Grade, cap and fence areas where, according to the U.S.
25 EPA approved Work Plan, the contamination can remain in the soil.

26 9. Respondents shall provide U.S. EPA with written weekly
27 summary reports. These reports shall contain a summary of the
28 previous week's activities and planned upcoming events.

1 10. EPA shall be informed at least forty-eight (48) hours prior
2 to any on-Site work.

3 11. All sampling and analysis shall be consistent with the
4 "Removal Program Quality Assurance/Quality Control Interim
5 Guidance: Sampling, QA/QC Plan and Data Validation," EPA OSWER
6 Directive 9360.4-01, dated February 2, 1989.

7 12. Any materials containing hazardous substances, pollutants,
8 or contaminants removed pursuant to this Order shall be disposed
9 of or treated at a facility approved by the On-Scene Coordinator,
10 and in accordance with the Resource Conservation and Recovery Act
11 of 1976 (RCRA), 42 U.S.C. Section 9601, et seq., as amended, the
12 U.S. EPA Revised Off-Site Policy, and all other applicable
13 Federal, State, and local requirements.

14 13. On or before the effective date of this Order, the Respon-
15 dents shall designate a Project Coordinator. To the greatest ex-
16 tent possible, the Project Coordinator shall be present on-Site,
17 or be otherwise readily available, during the performance of
18 response activities at the Site.

19 14. The U.S. EPA has designated Daniel M. Shane as its On-Scene
20 Coordinator (OSC). The On-Scene Coordinator, and the Project
21 Coordinator, if one is designated, shall be responsible for
22 overseeing the implementation of this Order. To the maximum ex-
23 tent possible, and unless otherwise specified in this Order, com-
24 munication between the Respondents and the U.S. EPA, and all
25 documents, reports, approvals, and correspondence concerning the
26 activities relevant to this Order, shall be directed through the
27 On-Scene Coordinator and the Project Coordinator.

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1 15. The U.S. EPA and the Respondents shall each have the right
2 to change their respective designated On-Scene Coordinator or
3 Project Coordinator. U.S. EPA shall notify the Respondents, and
4 Respondents shall notify U.S. EPA, as early as possible before
5 such a change is made, but in no case less than 24 hours before
6 such a change. Notification may initially be verbal, but shall
7 promptly be reduced to writing and mailed to U.S. EPA pursuant to
8 Section 25 of this Order.

9 16. The U.S. EPA On-Scene Coordinator shall have the authority
10 vested in an On-Scene Coordinator by the NCP, 40 CFR Part 300, as
11 amended, including the authority to halt, conduct, or direct any
12 work required by this Order, and to direct any other response ac-
13 tion to be undertaken by the U.S. EPA or the Respondents at the
14 Facility.

15 17. No extensions to the above timeframes shall be granted
16 without sufficient cause. All extensions must be requested, in
17 writing, and shall not be deemed accepted unless approved, in
18 writing, by U.S. EPA.

19 18. All instructions given by the U.S. EPA On-Scene Coordinator
20 or his designated alternate shall be binding upon the Respondents
21 as long as those instructions are not clearly inconsistent with
22 the National Contingency Plan.

23 19. To the extent that the Site or other areas where work under
24 this Order is to be performed is owned by or in possession of,
25 someone other than the Respondents, Respondents shall obtain all
26 necessary access agreements. In the event that after using their
27 best efforts Respondents are unable to obtain such agreements,
28 Respondents shall immediately notify U.S. EPA.

1 20. The Respondents shall provide access to the Site to U.S. EPA
2 employees, contractors, agents, and consultants at reasonable
3 times, and shall permit such persons to be present and move
4 freely in the area in order to conduct inspections, including
5 taking photographs and videotapes of the Facility, to do
6 cleanup/stabilization work, to take samples to monitor the work
7 under this Order, and to conduct other activities which the U.S.
8 EPA deems necessary.

9 21. Nothing contained herein shall be construed to prevent
10 U.S. EPA from seeking legal or equitable relief to enforce
11 the terms of this Order, or from taking other legal or equitable
12 action as it deems appropriate and necessary, or from requiring
13 the Respondents in the future to perform additional response
14 activities pursuant to CERCLA, 42 U.S.C. Section 9601, et seq.,
15 or any other applicable law.

16 22. The provisions of this Order and the directions of the On-
17 Scene Coordinator shall be binding on the employees, agents, suc-
18 cessors, and assigns of the Respondents.

19 23. Respondents shall retain copies of all records and files
20 relating to hazardous substances found on the Site for six (6)
21 years following completion of the activities required by this Or-
22 der and shall make them available to the U.S. EPA prior to the
23 termination of the removal activities under this Order.

24 24. The Respondents shall submit a final report summarizing the
25 actions taken to comply with this Order. The report shall con-
26 tain, at a minimum: identification of the Site; a description of
27 the locations and types of hazardous substances encountered at
28 the Site upon the initiation of work performed under this Order;

1 a chronology and description of the actions performed (including
2 both the organization and implementation of response activities);
3 a listing of the resources committed to perform the work under
4 this Order (including financial, personnel, mechanical and tech-
5 nological resources); identification of all items that affected
6 the actions performed under the Order and a discussion of how all
7 problems were resolved; a listing of quantities and types of
8 materials removed from the Site, a discussion of removal and dis-
9 posal options considered for any such materials, a listing of the
10 ultimate destination of those materials, and a presentation of
11 the analytical results of all sampling and analyses performed and
12 accompanying appendices containing all relevant paperwork accrued
13 during the action (e.g., manifests, invoices, bills, contracts,
14 permits).

15 The final report shall include an affidavit from a person
16 who supervised or directed the preparation of that report. The
17 affidavit shall certify under penalty of law that based on per-
18 sonal knowledge and appropriate inquiries of all other persons
19 involved in the preparation of the report, the information sub-
20 mitted is true, accurate, and complete to the best of the
21 affiant's knowledge and belief. The report shall be submitted to
22 U.S. EPA within thirty (30) calendar days of completion of the
23 work required by U.S. EPA.

24 25. All notices, reports, and requests for extensions submitted
25 under terms of this Order shall be sent by certified mail, return
26 receipt requested, and addressed to the following:

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1 one copy Daniel M. Shane, On-Scene Coordinator
2 Emergency Response Section (H-8-3)
3 U.S. EPA Region IX
4 75 Hawthorne Street
5 San Francisco, CA 94105
6 (415) 744-2286

7 one copy Matthew Strassberg, Assistant Regional Counsel
8 Office of Regional Counsel (RC-3-1)
9 U.S. EPA Region IX
10 75 Hawthorne Street
11 San Francisco, CA 94105
12 (415) 744-1370

13 26. If any provision of this Order is deemed invalid or unen-
14 forceable, the balance of this Order shall remain in full force
15 and effect.
16

17 COMPLIANCE WITH OTHER LAWS

18 The Respondents shall comply with all applicable federal,
19 state and local laws and regulations in carrying out the terms of
20 this Order. As indicated above, all hazardous substances removed
21 from the Site must be handled in accordance with the Resource
22 Conservation and Recovery Act of 1976, 42 U.S.C. Section 6921, et
23 seq., the regulations promulgated under that Act, and Section
24 121(d)(3) of CERCLA, 42 U.S.C. Section 9621(d)(3).
25

26 ENDANGERMENT DURING IMPLEMENTATION

27 The Director, Hazardous Waste Management Division, EPA
28 Region 9, may determine that acts or circumstances (whether re-
lated to or unrelated to this Order) may endanger human health,
welfare or the environment, and as a result of this determina-
tion, may order the Respondents to stop further implementation
of this Order until the endangerment is abated.

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1 GOVERNMENT NOT LIABLE

2 The United States Government and its employees and other
3 representatives shall not be liable for any injuries or damages
4 to persons or property resulting from the acts or omissions of
5 the Respondents, their employees, contractors, or other represen-
6 tatives caused by carrying out this Order. For the purposes of
7 this Order, the United States Government is not a party to any
8 contract with the Respondents.

9
10 ACCESS TO ADMINISTRATIVE RECORD

11 The Administrative Record supporting selection of the
12 response action, is available for review on normal business days
13 between the hours of 9:00 a.m. and 5:00 p.m., in the Office of
14 Regional Counsel, United States Environmental Protection Agency,
15 Region IX, 75 Hawthorne Street, 16th Floor, San Francisco,
16 California 94105. Please contact Matthew Strassberg, Assistant
17 Regional Counsel at (415) 744-1370 to review the Administrative
18 Record. An index of the Administrative Record is attached
19 hereto.

20 OPPORTUNITY TO CONFER

21 With respect to the actions required above, the Respondents
22 may, within three (3) calendar days following the issuance of
23 this Order, request a conference with the U.S. EPA. Any such
24 conference shall be held within three (3) calendar days from the
25 date of the Respondents' request, unless extended by mutual
26 agreement of the parties. At any conference held pursuant to the
27 request, Respondents may appear in person, or be represented by
28 an attorney or other representative. If any Respondent desires

1 such a conference, Respondents shall contact Matthew Strassberg,
2 Assistant Regional Counsel, at (415) 744-1370.

3 If such a conference is held, Respondents may present any
4 evidence, arguments, or comments regarding this Order, its ap-
5 plicability, any factual determinations upon which the Order is
6 based, the appropriateness of any action which Respondents are
7 ordered to take, or any other relevant and material issue. Any
8 such evidence, arguments, comments, or objections should be
9 reduced to writing and submitted to the U.S. EPA within three (3)
10 calendar days following the scheduled conference.

11 If no conference is requested, any such evidence, arguments,
12 or comments must be submitted in writing within three (3) calen-
13 dar days following the effective date of this Order. Any such
14 writing should be directed to the Assistant Regional Counsel at
15 the address cited above.

16 Respondents are hereby placed on notice that U.S. EPA will
17 take any action which may be necessary in the discretion of U.S.
18 EPA for the protection of public health and welfare and the en-
19 vironment, and Respondents may be liable under Section 107(a) of
20 CERCLA, 42 U.S.C. Section 9607(a), for the costs of those
21 government actions.

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1 PENALTIES FOR NONCOMPLIANCE

2 Respondents are advised that pursuant to Section 106(b) of
3 CERCLA, 42 U.S.C. Section 9606(b), a willful violation or failure
4 or refusal to comply with this Order may subject the Respondents
5 to a civil penalty of up to \$25,000 per day for each day in which
6 the violation occurs or failure to comply continues. Failure to
7 comply with this Order, or any portion thereof, without suffi-
8 cient cause may also subject the Respondents to liability for
9 punitive damages of up to three times the total cost incurred by
10 the United States as a result of the Respondents' failure to take
11 proper response action with regard to the Site, pursuant to Sec-
12 tion 107(c)(3) of CERCLA, 42 U.S.C. Section 9607(c)(3).

13 THIS ORDER IS ISSUED ON this 25 day of October 1991.

14 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

15 By: 
16 Jeff Zelikson, Director
17 Hazardous Waste Management Division
18 United States Environmental Protection Agency
19 Region IX
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